

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1333 of 1979

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GOHEL MEGHJI MADHAVJI

Versus

PATEL MANJIBHAI RAMJIBHAI

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Appearance:

MS VASUBEN P SHAH for Petitioners  
SERVED BY AFFIXING for Respondent No. 1  
MR SURESH M SHAH for Respondent No. 2

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 15/12/97

ORAL JUDGEMENT

The plaintiff-landlord has filed this Revision Application arising out of R.C.S. No.425/72 wherein the plaintiff sought recovery of possession of the suit shop on the ground of default in payment of rent, sub-letting and disclaimer of the title of the landlord. The Joint Civil Judge (SD), Jamnagar decreed the suit by judgment

and decree dated 23.4.1976. The plaintiff-petitioner preferred an appeal against the said judgment. The appellate Court upheld the finding of the trial court on the issue of sub-letting as well as disclaimer of the title of the landlord by the defendant No.1. However, the Court upturned the judgment on the ground that the tenancy has not been terminated by way of notice.

2. It is not in dispute that the plaintiff-petitioner has sought decree for recovery of possession against the tenant under the State Act namely; Bombay Rents, Hotel and Lodging House Rents Rates Control Act, 1947. (For short, 'the Bombay Rent Act, 1947'). The Apex Court in the case of V DHANAPAL CHETTIAR v. YESODAI AMMAL, reported in AIR 1979 SC 1745 has held that in order to get a decree or order for eviction against a tenant under any State Rent Control Act, it is not necessary to give notice under section 106 of Transfer of Property Act. In view of this judgment passed by the Appellate Court rejecting the petitioner-plaintiff's suit only on the ground of no termination of tenancy by notice in accordance with the provisions of Property Act is not sustainable.

3. In view of the aforesaid, this Revision Application is allowed and the judgment passed by the Joint Judge, Jamnagar dated 30.4.1979 in Regular Civil Appeal No.54/76 below Exh.24 is quashed and set aside. The judgment passed by the Civil Judge (SD), Jamnagar in Regular Civil Suit No.425/72 dated 23.4.1976 is restored.

Rule made absolute accordingly.

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msp.